

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALEXANDRA MADELYN PAGE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:22-cv-00965-JLT-CDB

FINDINGS AND RECOMMENDATION TO
GRANT UNOPPOSED MOTION BY
COUNSEL FOR PLAINTIFF FOR
ATTORNEY'S FEES UNDER
42 U.S.C. §406(b)

(Doc. 33)

14-DAY OBJECTION DEADLINE

Pending before the Court is the motion of Sima G. Aghai ("Counsel"), counsel for Plaintiff Alexandra Madelyn Page ("Plaintiff"), for an award of attorney's fees pursuant to 42 U.S.C. § 406(b), filed on July 7, 2025. (Doc. 33). The motion seeks attorney's fees in the amount of \$37,764.75 for representing Plaintiff in this action. (*Id.* at 1). Neither Plaintiff nor Defendant filed any opposition or response to the motion. For the reasons set forth below, the undersigned will recommend that Counsel's motion for attorney's fees be granted.

I. Relevant Background

On August 11, 2020, Plaintiff and Counsel entered into a contingency fee agreement. (Doc. 33-1; Doc. 33 at 3). The parties agreed to attorney's fees in the amount of 25% of the past-due benefits that were awarded to Plaintiff in the event she prevailed in her case. (Doc. 33-1 at 1). The agreement also provided that Plaintiff would pay her attorney's costs that were incurred in the

1 representation. (*Id.* at 2). Further, the agreement provided that Counsel could seek fees pursuant
2 to the Equal Access to Justice Act (“EAJA”). (*Id.* at 1).

3 Plaintiff initiated this action with the filing of a complaint on August 2, 2022, appealing the
4 Commissioner of Social Security’s (“Commissioner” or “Defendant”) decision denying her
5 application for benefits. (Doc. 1). Plaintiff filed a motion for summary judgment on March 17,
6 2023. (Doc. 21). On June 9, 2023, Defendant filed an opposition, and Plaintiff filed a reply on
7 July 17, 2023. (Docs. 24, 27). On January 30, 2024, the undersigned issued Findings and
8 Recommendations to grant Plaintiff’s motion for summary judgment and remand the case for
9 further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Doc. 28). On February 16,
10 2024, the assigned district judge adopted the Findings and Recommendations, granted Plaintiff’s
11 motion for summary judgment, and remanded the case for further proceedings. (Doc. 29).
12 Judgment in favor of Plaintiff was entered the same day. (Doc. 30).

13 On May 15, 2024, the parties filed a stipulated request for award of attorney’s fees pursuant
14 to the EAJA. (Doc. 31). On May 16, 2024, the Court granted the request for award and payment
15 of attorney’s fees pursuant to the EAJA and Counsel was awarded EAJA fees in the amount of
16 \$7,750.00. (Doc. 32).

17 Following remand, the Commissioner issued a favorable decision awarding benefits to
18 Plaintiff. (Doc. 33 at 3-4). The Social Security Administration sent Plaintiff a Notice of Award
19 dated April 5, 2025. (*See* Doc. 33-2). The Notice of Award confirmed that \$37,764.75 was
20 withheld as 25% of past-due benefits for payment for her Counsel. (*Id.* at 3).

21 On July 7, 2025, Counsel filed the instant motion for attorney’s fees pursuant to 42 U.S.C.
22 § 406(b) seeking an award of \$37,764.75 in attorney’s fees, representing 25% of Plaintiff’s past-
23 due benefits. (Doc. 33 at 3-4). Counsel filed an accompanying proof of service that the instant
24 motion was served on Plaintiff by U.S. mail on July 7, 2025. (Doc. 33 at 9). Neither Plaintiff nor
25 Defendant filed an opposition or statement of non-opposition to Counsel’s motion and the time to
26 do so has passed.

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1 **II. Legal Standard**

2 An attorney may seek an award of fees for representation of a Social Security claimant who
3 is awarded benefits:

4 Whenever a court renders a judgment favorable to a claimant under [42 U.S.C. §
5 401, *et seq*] who was represented before the court by an attorney, the court may
6 determine and allow as part of its judgment a reasonable fee for such representation
7 not in excess of 25 percent of the total of the past-due benefits to which the claimant
 is entitled by reason of such judgment...

8 42 U.S.C. § 406(b)(1)(A); *see Gisbrecht v. Barnhart*, 535 U.S. 789, 794 (2002) (Section 406(b)
9 controls fees awarded for representation of Social Security claimants). The Commissioner typically
10 does not act as an adversary, but “plays a part in the fee determination resembling that of a trustee
11 for the claimants.” *Gisbrecht*, 535 U.S. at 798 n.6 (2002). Thus, “[b]ecause the [Commissioner]
12 has no direct interest in how much of the award goes to a counsel and how much to the disabled
13 person, the district court has an affirmative duty to assure that the reasonableness of the fee is
14 established.” *Crawford v. Astrue*, 586 F.3d 1142, 1149 (9th Cir. 2009); *see Gisbrecht*, 535 U.S. at
15 808-08 (the 25% statutory maximum fee is not an automatic entitlement, and the court must ensure
16 that the fee requested is reasonable). In determining whether the requested fee is reasonable, the
17 court considers (1) the character of the representation and the results achieved by the representative,
18 (2) whether the attorney is responsible for delay in effectuating benefits, and (3) whether the
19 requested fee is reasonable in light of the amount of time the attorney spent in litigating the case.
20 *Gisbrecht*, 535 U.S. at 808; *Crawford*, 586 F.3d at 1149.

21 **III. Discussion**

22 Pursuant to Local Rule 230(c), the undersigned will construe Plaintiff’s and Defendant’s
23 failure to file an opposition to Counsel’s motion as non-opposition to the relief requested. *See* E.D.
24 Cal. L.R. 230(c).

25 Counsel for Plaintiff’s motion for attorney’s fees is reasonable. Counsel is an experienced
26 attorney who secured a successful result for Plaintiff in this action. *See* (Docs. 21, 27, 28-30).
27 There is no indication that a reduction of fees is warranted due to any substandard performance by
28 Counsel. There is also no evidence that Counsel engaged in any dilatory conduct resulting in

1 excessive delay. Indeed, Counsel's itemized bill (Doc. 33-3) reflects 33 hours of time to review
2 the 664-page administrative record, draft a motion for summary judgment with approximately ten
3 pages of argument, review Defendant's responsive brief, and draft a reply with approximately ten
4 pages of argument. (Docs. 18, 21, 24, 27). The Court finds 33 hours is a reasonable amount of
5 time for the performance of those tasks.

6 The Court also finds that the total award sought does not appear to be disproportionate to
7 the amount of time Counsel spent on the case. Counsel for Plaintiff requests an hourly rate of
8 \$1,144.38 (\$37,764.75 / 33 hours). Though significant, the amount requested cannot be said to be
9 a windfall. *See Smith v. Kijakazi*, No. 1:13-cv-01717-BAK-SKO, 2022 WL 1471035, at *2 (E.D.
10 Cal. May 10, 2022) (collecting cases finding that similar amounts in attorney's fees requested were
11 appropriate); *Anthony v. O'Malley*, No. 1:21-CV-01604-SKO, 2024 WL 4770287, at *3 (E.D. Cal.
12 Nov. 13, 2024) (collecting cases and finding effective hourly rate of \$1,237.96 not excessive);
13 *Garcia v. O'Malley*, No. 1:20-cv-01366-SKO, 2024 WL 1118782, at *3 (E.D. Cal. Mar. 14, 2024)
14 (collecting cases and finding effective hourly rate of \$2,307.69 not excessive); *see also Villa v.*
15 *Astrue*, No. CIVS-06-0846 GGH, 2010 WL 118454, at *1 n.1 (E.D. Cal. Jan. 7, 2010) (noting that
16 "[i]n practice, the more efficient counsel is in court, the higher will be the hourly fee amount
17 represented in a § 406 fee award").

18 Similarly, the \$37,764.75 total amount is consistent with contingent fee awards granted
19 under § 406(b). *See, e.g., Aguilera v. Comm'r of Soc. Sec.*, No. 1:21-cv-00819-GSA, 2024 WL
20 3937517, at *2 (E.D. Cal. Aug. 23, 2024) (\$27,699.75); *Jamieson v. Astrue*, No. 1:09-cv-00490-
21 LJO-DLB, 2011 WL 587096, at *2 (E.D. Cal. Feb. 9, 2011) (\$34,500); *Thomas v. Colvin*, No. 1:11-
22 cv-01291-SKO, 2015 WL 1529331, at *3 (E.D. Cal. Apr. 3, 2015) (\$44,603.50).

23 Accordingly, the undersigned finds the fees sought by Counsel are reasonable given the
24 results achieved in this action. The undersigned will recommend Counsel's motion be granted and
25 an amount pursuant to § 406(b) of \$37,764.75 be awarded, but to be offset by any prior award of
26 attorney's fees granted under the EAJA. *Gisbrecht*, 535 U.S. at 796. As Plaintiff was previously
27 awarded \$7,750.00 in fees pursuant to EAJA (Doc. 32), Counsel shall refund the amount of
28 \$7,750.00 to Plaintiff.

1 **IV. Conclusion and Recommendation**

2 Accordingly, IT IS HEREBY RECOMMENDED:

- 3 1. Counsel for Plaintiff Sima G. Aghai's unopposed motion for authorization of attorney fees
4 under 42. U.S.C. § 406(b) (Doc. 33) be GRANTED;
- 5 2. Counsel for Plaintiff Sima G. Aghai is awarded § 406(b) attorney's fees in the amount of
6 \$37,764.75; and
- 7 3. Upon the receipt of the full attorney's fees, pursuant to 42 U.S.C. § 406(b), Counsel for
8 Plaintiff Sima G. Aghai shall reimburse to Plaintiff the full amount of the EAJA fee
9 (\$7,750.00) previously awarded. (Doc. 32).

10 These findings and recommendations will be submitted to the United States District Judge
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after
12 being served with these findings and recommendations, any party may file written objections with
13 the Court. The document should be captioned "Objections to Magistrate Judge's Findings and
14 Recommendations." The parties are advised that failure to file objections within the specified time
15 may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir.
16 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

17 IT IS SO ORDERED.

18 Dated: July 29, 2025

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UNITED STATES MAGISTRATE JUDGE